Canada Border Services Agency | Agence des services frontaliers du Canada

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# Memorandum D19-14-1

Ottawa, May 29, 2018

## Cross-Border Currency and Monetary Instruments Reporting

### In Brief

This update incorporates the most current terminology, as well as department names and addresses. This update also corrects the translation inconsistencies between the English and French version.

This memorandum explains the legislative and regulatory provisions, guidelines, and procedures associated with the requirement to report to the Canada Border Services Agency (CBSA) the physical cross-border movement of currency or monetary instruments.

## Legislation

*Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA)

Part 2 - Reporting of currency and monetary instruments

**Cross-Border Currency and Monetary Instruments Reporting Regulations**

### Definitions

1. (1) The following definitions apply in the Act and these Regulations.

"courier"
means a commercial carrier that is engaged in scheduled international transportation of shipments of goods other than goods imported or exported as mail. (messager)

"monetary instruments"

means the following instruments in bearer form or in such other form as title to them passes on delivery, namely,

*(a)* securities, including stocks, bonds, debentures and treasury bills; and

*(b)* negotiable instruments, including bank drafts, cheques, promissory notes, travellers' cheques and money orders, other than warehouse receipts or bills of lading.

For greater certainty, this definition does not apply to securities or negotiable instruments that bear restrictive endorsements or a stamp for the purposes of clearing or are made payable to a named person and have not been endorsed. (effets)

(2) The following definitions apply in these Regulations.

"Act"
means the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act. (Loi)*

"cargo ship"
means a commercial vessel that is engaged in international transportation of shipments of goods other than goods imported or exported as mail. (*navire de charge*)

"commercial passenger conveyance"
means a conveyance that is used to carry passengers who have paid for passage. (*moyen de transport commercial de passagers*)

"conveyance"
means any vehicle, aircraft or water-borne craft, or other contrivance that is used to move persons, goods, currency or monetary instruments. (*moyen de transport*)

"cruise ship"
means a commercial vessel that has sleeping facilities for over 70 persons who are not crew members but does not include a vessel engaged in passenger or cargo ferry service. (*navire de croisière*)

"emergency"
means a medical emergency, fire, flood or other disaster that threatens life, property or the environment. (*urgence*)

"non-commercial passenger conveyance"
means a conveyance that does not have aboard any person who has paid for passage and includes corporate aircraft, private aircraft and marine pleasure craft. (*moyen de transport non commercial de passagers*)

"transfer agent"
means a person or entity appointed by a corporation to maintain records of stock, debenture and bond owners, to cancel and issue certificates and to send out dividend cheques. (*agent de transfert*)

## Reporting of Importations and Exportations

### Minimum Value of Currency or Monetary Instruments

2. (1) For the purposes of reporting the importation or exportation of currency or monetary instruments of a certain value under subsection 12(1) of the Act, the prescribed amount is $10,000.

(2) The prescribed amount is in Canadian dollars or its equivalent in a foreign currency, based on

*(a)* the official conversion rate of the Bank of Canada as published in the Bank of Canada's *Daily Memorandum of Exchange Rates* that is in effect at the time of importation or exportation; or

*(b)* if no official conversion rate is set out in that publication for that currency, the conversion rate that the person or entity would use for that currency in the normal course of business at the time of the importation or exportation.

### General Manner of Reporting

3. Subject to subsections 4(3) and (3.1) and section 8, a report with respect to the importation or exportation of currency or monetary instruments shall

*(a)* be made in writing;

*(b)* contain the information referred to

(i) in Schedule 1, in the case of a report made by the person described in paragraph 12(3)*(a)* of the Act, if that person is not transporting on behalf of an entity or other person,
(ii) in Schedule 2, in the case of a report made by the person described in paragraph 12(3)*(a)* of the Act, if that person is transporting on behalf of an entity or other person,
(iii) in Schedule 2, in the case of a report made by the person or entity described in paragraph 12(3)*(b)*, *(c)* or *(e)* of the Act, and
(iv) in Schedule 3, in the case of a report made by the person described in paragraph 12(3)*(d)* of the Act;

*(c)* contain a declaration that the statements made in the report are true, accurate and complete; and

(d) be signed and dated by the person or entity described in paragraph 12(3)*(a)*, *(b)*, *(c)*, *(d)* or *(e)* of the Act, as applicable.

**Importation Reporting**

4. (1) Subject to subsections (2) to (5) and section 9, a report with respect to currency or monetary instruments transported by a person arriving in Canada shall be submitted without delay by the person at the customs office located at the place of importation or, if it is not open for business at the time of importation, at the nearest customs office that is open for business at that time.

(2) A report with respect to currency or monetary instruments transported by a person arriving in Canada on board a commercial passenger conveyance who has as their destination another place in Canada at which there is a customs office may be submitted without delay by the person at that customs office or, if it is not open for business at the time of importation, at the nearest customs office that is open for business at that time, on condition that

*(a)* the person does not disembark from the conveyance at the place of arrival in Canada and the currency or monetary instruments are not removed from the conveyance at that place, other than to be transferred under customs control directly to a commercial passenger conveyance for departure to the other place in Canada or directly to a holding area designated as such for the purposes of the *Presentation of Persons (Customs) Regulations*; and

*(b)* if the person and currency or monetary instruments are transferred under customs control directly to a designated holding area, the person does not leave and the currency or monetary instruments are not removed from that area, other than to board or to be loaded on board a commercial passenger conveyance for departure to the other place in Canada.

(3) A report with respect to currency or monetary instruments transported by a person arriving in Canada on board a non-commercial passenger conveyance at a customs office where, under the *Customs Act*, customs reporting may be done by radio or telephone may be submitted by radio or telephone to an officer by that person or the person in charge of the conveyance at that location, on condition that

*(a)* when the person informs the officer of their arrival for the purposes of section 11 of the *Customs Act*, they provide the information referred to in Schedule 1, 2 or 3, as applicable; and

*(b)* on the officer's request, they present themselves and make available for examination the currency or monetary instruments at the time and place specified by the officer.

(3.1) A report with respect to currency or monetary instruments transported by a person arriving in Canada on board a non-commercial passenger conveyance, at a customs office where the person is authorized in accordance with the *Presentation of Persons (2003) Regulations* to present in an alternative manner, may be submitted to an officer by telephone, by that person or the person in charge of the conveyance before arriving in Canada, on condition that

*(a)* when the person informs the officer of their arrival for the purposes of section 11 of the *Customs Act*, they provide the information referred to in Schedule 1, 2 or 3, as applicable; and

*(b)* on the officer's request, they present themselves and make available for examination the currency or monetary instruments on arrival in Canada at the time and place specified by the officer.

(4) A report with respect to currency or monetary instruments transported by a freight train crew member arriving in Canada on board the freight train shall be submitted without delay by the crew member at the customs office specified by the officer when the crew member presents himself or herself in accordance with section 11 of the *Customs Act*.

(5) A report with respect to currency or monetary instruments that are transported by courier into Canada on board an aircraft and that have as their destination another place in Canada at which there is a customs office, shall be submitted at the customs office located at the airport of destination shown on the air waybill, on condition that

*(a)* the currency or monetary instruments are not removed from the aircraft at the place of arrival, other than to be transferred under customs control directly to a holding area designated as such for the purposes of the *Presentation of Persons (Customs) Regulations*; and

*(b)* if the currency or monetary instruments are transferred under customs control directly to a designated holding area, they are not removed from that area, other than to be loaded on board an aircraft for departure to the other place in Canada.

5. Subject to section 10, a report made by an exporter with respect to the importation of currency or monetary instruments by mail shall be made by

*(a)* including inside the mail item an importation report with respect to the currency or monetary instruments; and

*(b)* affixing the customs declaration form required by the *Universal Postal Convention*, as amended from time to time, to the outside of the mail item and indicating that it contains currency or monetary instruments.

6. A report made with respect to the importation of currency or monetary instruments that have been retained under section 14 of the Act shall be submitted by the person or entity to whom the notice was given at the customs office indicated on the notice.

7. A report with respect to the importation of currency or monetary instruments, other than one referred to in sections 4 to 6, shall be submitted without delay at the customs office that is open for business at the time of the importation and that is nearest to the place of importation.

8. In an emergency, the person in charge of a conveyance who must unload currency or monetary instruments from the conveyance before being able to make or submit an importation report in accordance with these Regulations may submit the importation report by telephone or other expedient means and, as soon as possible after that, shall make or submit a report in accordance with these Regulations.

**Exportation Reporting**

9. A report with respect to currency or monetary instruments transported by a person departing from Canada shall be submitted without delay by the person at the customs office located at the place of exportation or, if it is not open for business at the time of exportation, at the nearest customs office that is open for business at that time.

10. A report required to be made by an exporter with respect to the exportation by mail of currency or monetary instruments shall be made by

*(a)* including an exportation report inside the mail item; and

*(b)* mailing or submitting, at or before the time when the currency or monetary instruments are mailed, a copy of the exportation report to the customs office that is located nearest to the point at which the item was mailed.

11. A report made with respect to the exportation of currency or monetary instruments that have been retained under section 14 of the Act shall be submitted by the person or entity to whom the notice was given at the customs office indicated on the notice.

12. A report with respect to the exportation of currency or monetary instruments, other than one referred to in sections 11 to 13, shall be submitted without delay at the customs office that is open for business at the time of exportation and that is nearest to the place of exportation.

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## Guidelines and General Information

1. The Act and its Regulations require imports and exports of CAN$10,000 or more or its equivalent in currency or monetary instruments (or the equivalent in a foreign currency, based on the official conversion rate) to be reported to a border services officer.

### General Manner of Reporting – Forms

2. Importers and exporters must complete, sign, and submit the following forms to report their imports and exports of currency or monetary instruments:

*(a)* Form E677, *Cross-Border Currency or Monetary Instruments Report – Individual*, is used to report situations where currency or monetary instruments are physically carried by a person

arriving in or departing from Canada, or where they form part of the person's baggage and that person and his or her baggage are being carried on board the same conveyance across the border.

*(b)* Form E667, *Cross-Border Currency or Monetary Instruments Report – General*, is used to report all other situations, including mailing, shipping by courier, or transporting currency or monetary instruments on someone else's behalf. In the case of mail, the exporter who is sending the currency or monetary instruments to Canada has to affix Form CN23, *CBSA Declaration Form*, to the outside of the mail item and include a completed Form E667 inside.

*(c)* Form E668, *Cross-Border Currency or Monetary Instruments Report Made by Person in Charge of Conveyance*, is used to consolidate all currency and monetary instruments transported by the person in charge of a conveyance. The importer or exporter must also complete Form E667.

3. Import and export reporting require the same forms and data. Completed forms that are submitted and that comply with the conditions of this policy will be considered to meet the reporting requirements of the Act.

## Completed Forms

4. Completed forms must be sent to the CBSA's Programs Branch by first-class mail using a single gum-sealed envelope with no security marking or, where available, through inter-office mail in a reusable envelope.

5. The CBSA captures data from completed forms and forwards it to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). FINTRAC is Canada's financial intelligence unit, a specialized agency created to collect and analyze financial information and intelligence on suspected money laundering and terrorist financing activities. Forms are to be batched weekly by the CBSA office and sent to:

CBSA/FINTRAC Data Entry
Strategic Planning and Financial Management Unit
Program Performance and Reporting Division
Sir Richard Scott Building, 17th Floor
191 Laurier Avenue West
Ottawa, ON K1A 0L8

## Import Reporting

### Imports by Mail

6. An exporter who sends currency or monetary instruments to Canada has to affix Form CN23, CBSA Declaration Form, to the outside of the mail item and include a completed Form E667 inside. If a declaration form indicates currency or monetary instruments, but Form E667 is either missing or incomplete, the currency will be retained and a retention notice will be sent to the importer.

7. Other postal requirements may apply when you import or export currency or monetary instruments by mail. Contact Canada Post Corporation for more information at www.canadapost.ca. Currency mailed

from a location outside of Canada to another destination outside of Canada but that transits Canada through the course of post does not have to be reported (e.g., currency or monetary instruments mailed from France to St-Pierre et Miquelon).

**Imports by Rail**

8. The person in charge of a conveyance has to report the currency or monetary instruments at the nearest CBSA office that is open for business. If the currency or monetary instruments are in the actual possession of a person, it will be that person's responsibility to report them to the nearest CBSA office that is open for business. Currency or monetary instruments that are in the actual possession of the crew member aboard a freight train must be reported at the place specified by a border services officer.

**Commercial Imports by Air**

9. Currency or monetary instruments that are transported by an air transportation company should be reported at the CBSA office for the destination airport shown on the air waybill.

**Reporting at Point of Clearance**

10. When a person on board a commercial carrier arrives in Canada but is destined for another place in Canada, the currency or monetary instruments declaration must be made at the CBSA office where the traveller disembarks and is required to clear customs.

**In-transit Passengers**

11. Passengers aboard a commercial conveyance transiting through Canada do not have to report currency or monetary instruments in their possession as long as they are not removed, other than to be transferred under CBSA control to another commercial conveyance for departure to a place outside of Canada. A currency or monetary instruments report must be made if the passenger disembarks at a point where he or she is required to clear customs.

**Telephone Reporting**

12. Established methods of reporting that involve the Telephone Reporting Centre (TRC) may be used for declaring currency or monetary instruments (i.e., CANPASS Corporate Aircraft and Private Aircraft). The Regulations allow for persons who report to a border services officer by telephone to make a currency or monetary instruments declaration. The border services officer at the TRC will complete the form on the person's behalf. No signature will be required on the form.

**Self-reporting Modes**

13. The Act requires that currency or monetary instruments be reported to an officer. Therefore, the various methods of self-reporting to CBSA (i.e., NEXUS etc.) may not be used to report currency or monetary instruments.

**Any Other Imports**

14. In any other situation, the person on whose behalf the currency or monetary instruments are imported has to report the currency or monetary instruments at the place where they are imported.

### Emergency Imports

15. In an emergency situation, a person in charge of a conveyance may unload currency or monetary instruments before making a currency or monetary instruments report. The person in charge of the conveyance may make a report by telephone, or other means, and as soon as possible make a written currency or monetary instruments report.

## Export Reporting

### Individuals

16. Currency or monetary instruments that are in the actual possession of a person, or that form part of that person's baggage if the person and baggage are being carried on board the same conveyance, must be reported at the CBSA office nearest to the place of export that is open for business.

### Commercial Exports

17. Currency or monetary instruments that are exported by a courier must be reported by the person in charge of the conveyance at the place of export.

### Exports by Mail

18. For currency or monetary instruments exports by mail, the exporter has to complete Form E667 and include a copy of the form inside the mailed item. The exporter also has to mail or submit a copy of the form to the nearest CBSA office before or when the item is mailed.

### Telephone Reporting

19. No provisions exist to use the TRC to report exports of currency or monetary instruments at this time.

### Any Other Exports

20. In any other situation, the person on whose behalf the currency or monetary instruments are being exported must make the currency or monetary instruments report at the CBSA office at the place of export.

## Reporting Exceptions

### Diplomats

21. It is the CBSA's policy, in accordance with these policy guidelines, to give precedence to the provisions of the *Foreign Missions and International Organizations Act*, over the reporting requirements of the Act.

### Bank of Canada

22. The Act exempts the Bank of Canada from all requirements to report imports or exports of currency or monetary instruments.

## Exemption Applicable to Imported Shares Exception

23. A person or entity is not required to make a report under subsection 12(1) of the Act with respect to stocks, bonds and debentures imported into Canada by courier or as mail if the importer is a financial entity or a securities dealer as defined in subsection 1(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* or a transfer agent.

## Duty to Answer and Comply

24. A person who reports currency or monetary instruments has to answer truthfully any questions that a border services officer asks about the information required for the report.

25. A person who makes the report has to present the currency or monetary instruments, unload any conveyance or part of a conveyance or baggage, and open or unpack any package or container that a border services officer wishes to examine.

### Cancelling Reports

26. A person who declares currency or monetary instruments may, up to the time of a full report, advise that he or she no longer wishes to proceed with the import or export. Without a report, the person will be allowed to withdraw his or her intent to enter or exit Canada. However, this right does not apply to unreported currency or monetary instruments.

## Verification

27. When a person reports currency or monetary instruments, a border services officer may examine the currency or monetary instruments to verify the report.

### Searching Persons

28. If an officer has reasonable grounds to suspect that the Act has been violated, or that a person is attempting to circumvent the Act, the officer may search:

> *(a)* any person who has arrived in Canada, within a reasonable time after the person's arrival in Canada;
>
> *(b)* any person who is about to leave Canada at any time before his or her departure; or
>
> *(c)* any person who has had access to an area designated for use by persons about to leave Canada, and who leaves that area but does not leave Canada, within a reasonable time after the person leaves the area.

### Searching Conveyances

29. An officer may, in order to determine whether there are, on or about a conveyance, currency or monetary instruments of a value equal to or greater than the amount prescribed, search a conveyance for violations of the Act. The officer may stop, board, and search the conveyance, examine anything in or on

it, open or cause to be opened any package or container in or on it, and direct the conveyance to be moved to a CBSA office or other suitable place for the search.

**Searching Baggage**

30. An officer may, in order to determine whether there are, in baggage, currency or monetary instruments of a value equal to or greater than the amount prescribed search the baggage, examine anything in it, open or cause to be opened any package or container in it, and direct the baggage be moved to a CBSA office or other suitable place for the search.

**Searching Mail**

31. An officer may examine and open any mail that is being imported or exported or cause to be opened any such mail that he or she has reasonable grounds to suspect contains CAN$10,000 or more in currency or monetary instruments. This is to be done in the presence of another officer when and if feasible.

## Retention

32. When a person indicates that he or she has currency or monetary instruments to report but cannot or fails to complete a cross-border currency or monetary instruments report at that time, the officer may retain the currency or monetary instruments until the report is complete. The officer will give the importer written notice in person or by registered mail that the currency has been retained. When currency sent by courier or mail is retained, the officer will notify the exporter. If the exporter's address is not known, the officer will notify the importer. The notice shall be given or sent without delay within 60 days of retention.

33. The importer or exporter must satisfy the officer that the currency or monetary instruments have been reported or that they have decided not to proceed with the import or export within 30 days following the issuance of the retention notice for courier or mail imports or exports. In all other cases, a full report of the currency or monetary instruments must be made within seven days of the issuance of the retention notice. If the requirements are not met within the prescribed period, the currency or monetary instruments will be considered abandoned to the Crown.

## Seizures

34. If an officer has reasonable grounds to believe that subsection 12(1) of the Act (reporting requirements) has been contravened, he or she may seize the currency as forfeit and applicable terms of release will be offered.

35. If an officer suspects on reasonable grounds that the non-reported currency or monetary instruments are proceeds of crime or terrorist finances, the officer may seize the currency with no terms of release.

**Transfers of Monies**

36. Currency or monetary instruments that are forfeited or seized, and the financial penalties collected under the Act, must be promptly deposited or forwarded directly to Public Services and Procurement Canada (PSPC), Seized Property Management Directorate (SPMD).

## Request for Review of a Seizure Process

37. Under subsection 24.1 of the Act, the Minister, or an officer designated by the President for the purpose of this section, may, within 90 days after a seizure or an assessment of a penalty, cancel the seizure, or cancel or refund the penalty or reduce a penalty or refund the excess amount of the penalty collected in respect of unreported currency.

38. Under subsection 25 of the Act, a person from whom currency or monetary instruments were seized, or the lawful owner, has 90 days after the date of the seizure to request a decision of the Minister on whether the reporting requirement was contravened. A person may apply for a decision by giving notice to the Minister in writing or by any other means that is satisfactory to the Minister. 39. The request for review must be sent to the Recourse Directorate by using one of the below options:

- Submitting a request online, using E-Appeals;
- Submitting a request in writing to the following address:

Recourse Directorate,
Canada Border Services Agency,
333 North River Road, Tower A, 11th Floor
Ottawa ON K1A 0L8
Facsimile: 343-291-7239

40. Once the Recourse Directorate has made a decision, a registered letter explaining whether the seizure has been maintained, amended, or cancelled, and the reasons for that decision will be sent to the person who requested the review.

41. When money laundering or terrorist financing charges are laid in connection with the seizure, the Recourse Directorate has 30 days after court proceedings conclude to render a decision.

42. If the Recourse Directorate finds that there has been no contravention, it will notify PSPC's Seized Property Management Directorate to refund the penalty that was paid for return of the currency, return the monetary instruments, or return an amount equal to the value of the money seized.

43. A person has 90 days after he or she is notified of a decision to request an appeal to the Federal Court of Canada. When the matter is brought before the Trial Division of the Federal Court, it will be turned over to the Department of Justice. The Recourse Directorate will continue to oversee and instruct legal counsel on the proceedings and will have the final say in the disposition of any appeal.

## Third-party Claims

44. The Act permits third parties to file claims. A third party who claims interest in the seized currency or monetary instruments has 90 days after the seizure to apply in writing to the court for a claim. The court that receives the request shall hear the appeal within 30 days of receiving the application.

45. The person who makes the claim has to serve notice of the application and of the hearing to the President or an officer designated by the President (Recourse Directorate). If civil litigation becomes necessary, the case will be turned over to the Department of Justice, and the Recourse Directorate will

oversee and instruct legal counsel on the proceedings and will have the final say in the position taken by the CBSA in contesting a third-party application.

46. The applicant must prove that his or her interest in the currency or monetary instruments was acquired in good faith before the contravention, that he or she is innocent of any complicity resulting in the contravention, and that he or she exercised reasonable care to ensure that the currency or monetary instruments would be reported.

47. In accordance with the court order, the Recourse Directorate will instruct the Minister of Public Services and Procurement to return to the applicant the currency or monetary instruments or an amount calculated on the basis of their interest as declared in the court order. Either the CBSA or the person making the application may appeal an order made by the court.

## Disclosure of Information

### Disclosure by the CBSA

48. Information obtained under the Act is not CBSA information and can only be used and disclosed as provided for under the Act, except for information from reports that is forwarded to FINTRAC.

49. Information obtained under this Act may be used internally when it is relevant in the administration and enforcement of the Act, the *Immigration and Refugee Protection Act or the Customs Act*.

50. Information gathered as a result of administering or enforcing the Act may be disclosed to the appropriate police force if an officer has reasonable grounds to suspect that the information would be relevant to investigating or prosecuting a money laundering or terrorist financing offence.

51. Officers may disclose information to FINTRAC if they have reasonable grounds to suspect that the information would help the Centre detect, prevent, or deter money laundering or terrorist financing.

### Disclosure by FINTRAC

52. The Act permits FINTRAC to disclose information to the CBSA if it determines the information to be relevant to an offence is related to the importation of goods which are prohibited, controlled or regulated under the *Customs Act* or other statutes, money laundering, or terrorist financing activities.

## Additional Information

53. For more information, contact:

Cross-Border Currency Reporting Program

Traveller Programs Directorate
Program Compliance and Outreach Division
15th floor, Sir Richard Scott Building
191 Laurier Avenue West
Ottawa ON K1A 0L8

Email: CBCR.DMTE@cbsa-asfc.gc.ca

54. For the most recent information on reporting cross-border currency and monetary instruments, contact the CBSA's free Border Information Service (BIS) at **1-800-461-9999**. If you are calling from outside of Canada, you can access BIS by calling (204) 983-3500 or (506) 636-5064. Long distance charges will apply. For those with hearing or speech impairments, dial 1-866-335-3237. You can also visit our website at: www.cbsa.gc.ca.

| References | |
|---|---|
| **Issuing Office** | Cross-Border Currency Reporting Program<br>Stakeholder Engagement and Outreach Unit<br>Program Compliance and Outreach Division<br>Programs Branch |
| **Headquarters File** | 5001-13-4 |
| **Legislative References** | *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (S.C. 2000, c. 17)<br>*Cross-Border Currency and Monetary Instruments Reporting Regulations* (SOR/2002-412, November 21, 2002) |
| **Other References** | *Customs Act*<br>*Immigration and Refugee Protection Act*<br>*Criminal Code of Canada* |
| **Superseded Memorandum D** | D19-14-1 dated August 19, 2009 |